



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

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THE RULES DIGEST

January, 2004

Scheduled for committee review
Tuesday, January 6th 2004
Statehouse Room #116

Reference
XXVI IAB No. 12(12/10/03)
XXVI IAB No. 13(12/24/03)

HIGHLIGHTS IN THIS ISSUE:

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CREDIT UNION DIVISION

11:15

Conversion of an Iowa chartered credit union, IAB Vol. XXVI, No. 12, ARC 2985B, EMERGENCY.

This agency now emergency adopts and implements a new chapter setting out procedures allowing an Iowa chartered credit union to convert to another charter type. No notice of intended action is published.

Under these rules an Iowa chartered credit union may convert to a federal credit union once it has completed a process that involves: full disclosure to its' members of the intents and purposes of conversion, the approval of the board of directors and the approval of its members as evidenced by vote of those members at a special meeting held for that purpose. The vote must pass by a majority of those present and voting. Notice of this proposal must be mailed to the credit union superintendent and each credit union member; all

relevant facts concerning this merger must be disclosed, include future plans for changes.

DENTAL EXAMINERS BOARD

9:20

Dental hygienists: public health supervision, IAB Vol. XXVI, No. 13, ARC 3041B, ADOPTED.

Under a limited set of circumstances Iowa law allows a dental hygienist to provide certain dental services where the supervising dentist is not present. The board now expands those circumstances with the concept of "public health supervision". Under this concept a hygienist with three years clinical experience (2500 hours over 5 years in March proposal) may enter into a public health supervision agreement with a supervising dentist. The agreement must specify services which the hygienist may provide in schools; head start programs; federally qualified health centers;

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public health dental vans; free clinics; nonprofit community health centers; and federal, state, or local public health programs. The supervising dentist need not be present at the site, but must be available to consult with the hygienist and specify the locations where the hygiene services will be provided. The dentist must also provide age and procedure specific standing orders for the performance of dental hygiene services; under the standing orders the hygienist may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services. The dentist is not required to examine the patient prior to the provision of these services.

When these rules were initially review in October, the Committee requested an informal regulatory analysis to outline the impact of this proposal; the request did not impact the rulemaking process itself. That analysis was provided by the board in December, along with the final rule. The analysis states that for a variety of reasons there is a shortage of dentists, especially in rural Iowa and especially as Medicaid service providers. The lack of access to dental services is seen as one of the barriers to effective dental care. The analysis contends that by increasing access to preventive dental services, such as prophylaxis and the application of sealants will, to some extent, address several barriers to dental care.

ECONOMIC DEVELOPMENT DEPARTMENT

9:40

Loan and credit guarantee program, IAB Vol. XXVI, No. 13, ARC 3034B, NOTICE.

These proposals establish application procedures, evaluation criteria, form of award, the contractual and compliance components for the new loan and credit guarantee program. This program was created by 2003 Acts, First Extraordinary Session, Chapter 1 Sec. 101. The legislature has appropriated some \$25 million over the next four years to fund this program; monies in this program do not revert.

The purpose of this fund is to provide loan guarantees for small and medium sized businesses

employing less than 200 people. The Act also targets businesses involved in life sciences, software and information technology, advanced manufacturing, value-added agriculture. An advisory group is established to identify additional eligible industries. Eligible businesses will be identified by participating financial institutions, which, along with the business, will submit the application. Individual loans or credit guarantees cannot exceed \$1 million or exceed 50% of the total loan; participation by a single financial institution is limited to \$10 million. No guarantee will extend beyond 15 years.

ECONOMIC DEVELOPMENT DEPARTMENT

9:40

Job retention program, IAB Vol. XXVI, No. 13, ARC 3029B, EMERGENCY AFTER NOTICE.

2003 Acts, First Extraordinary Session, Chapter 1 Sec. 101 created a jobs retention program as a component of the jobs training fund program established in Iowa Code Chapter 260F. Under this new program eligible businesses may enter into agreements with local area community colleges to obtain necessary training for their employees. The participating businesses must employ at least 1000 employees representing at least 4 percent of the county's resident labor force. Additionally, the businesses must invest at least \$15 million to retool the workplace, upgrade their facilities and provide a commitment that the participating businesses will not move out of this state or close for at least ten years. The businesses must provide a match of at least 25% of the training costs.

This filing also contains an entirely new division: the Grow Iowa Values Fund Assistance. This program will fund workforce training and economic development programs through the community colleges. Funds allocated under the workforce training and economic development fund are for use in the areas of advanced manufacturing, information technology and insurance, and life sciences, which include the areas of biotechnology, health care technology, and nursing care technology.

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ECONOMIC DEVELOPMENT DEPARTMENT

9:40

Workforce Training and Economic Development Funds, IAB Vol. XXVI, No. 13, ARC 3029B, EMERGENCY AFTER NOTICE.

This new program provides workforce training and economic development funds for each community college; in order to provide initial job training and retraining of Iowa workers. Money made available to this program will be allocated using the most recent distribution formula used for the allocation of state general aid to the community colleges. 70 percent of the moneys shall be used on projects in the areas of advanced manufacturing, information technology and insurance, and life sciences, including biotechnology, health care and nursing care technology. Each individual project is also subject to those criteria established for that particular DED program, such as the Iowa Jobs Training Program (261 IAC Ch. 9) or the Accelerated Career Education Program (261 IAC Ch. 20).

Each community college must submit a two year plan detailing how the funds will be used. Each community college will also submit an annual report detailing the achievements of the program. For job training and retention projects each college must document the state's return on investment for projects funded by grow Iowa values moneys. For accelerated career education and similar projects each college must document the number of enrollees, graduates and the placement of graduates. Beginning July 1, 2004, and each fiscal year thereafter, a community college shall not have moneys deposited in its' workforce training and economic development fund unless the grow Iowa values board approves the annual progress report of the community college.

ECONOMIC DEVELOPMENT DEPARTMENT

9:40

Endow Iowa: Grants Program, IAB Vol. XXVI, No. 13, ARC 3026B, ADOPTED.

There rules were initially reviewed by the committee in October. This new program is created in 2003 Acts, First Extraordinary Session, Chapter 1 to assist in the creation of community endowment funds to meet local community needs. The department is to approve a "lead philanthropic entity" to encourage the development of qualified community foundations. This entity must be state-wide nonprofit organization with at least 40 members. Membership must consist of organizations whose principal function is to make grants within the state of Iowa. A request for proposal to select this entity will be developed as part of this rulemaking.

The entity may receive a grant from the department in order to award "endow Iowa grants" to new and existing qualified community foundations and to community affiliate organizations. No more than three grants may go to any one county in a single year. Grants may be for no more than \$25,000, unless it is for a multi-county or regional purpose. The local entity must provide a dollar-for-dollar match. Administrative costs are limited to 5%.

The Act sets out six criteria to evaluate local applications:

- The demonstrated need for financial assistance.
- The potential for future philanthropic activity in the area.
- The proportion of the funding match being provided.
- For community affiliate organizations, the demonstrated need for a community affiliate endowment fund in that area.
- The identification of community needs and how additional funding will address those needs.
- The geographic diversity of awards.

ECONOMIC DEVELOPMENT DEPARTMENT

9:40

Endow Iowa: tax credit program, IAB Vol. XXVI, No. 13, ARC 3027, ADOPTED.

2003 Acts, First Extraordinary Session, Chapter 2, §70 has appropriated \$1 million for the 2004-2007 fiscal years to fund an Endow Iowa tax credit. The department will authorize tax credits to

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qualified individuals providing an endowment gift to a qualified community foundation (see discussion: ARC 3026B *supra*) for a permanent endowment fund. These tax credits will be allowed against the income tax and the moneys and credits tax. Credits will be equal to 20 percent of the endowment gift.

Authorized credits cannot not exceed an aggregate total of \$2 million. The maximum amount of tax credits granted to a single taxpayer shall not exceed 5 percent of the total. Applications in excess of the amount. Available will be prioritized by the date received. The credits may be used for up to five years. 10% of the credits are reserved for endowments related to the Endow Iowa program (see above). Another 10% is reserved for smaller endowments of \$30,000 or less.

EDUCATION DEPARTMENT

10:00

Teacher quality program, IAB Vol. XXVI, No. 12, ARC 2999B, NOTICE.

This new rule requires that each school district incorporate a district career development plan into its' comprehensive school improvement plan, as required in Code §284.6. The plan is developed on the local level and must include theory, demonstration, practice, observation, collaboration, and the study of implementation. Under this overall plan individual teacher plans are then developed by that teacher, in consultation with the teacher's evaluator. These individual plans are already outlined in rule 83.6(1).

Under these rules a development provider may be the district, a higher education institution, or a public or private entity.

EDUCATION DEPARTMENT

10:00

Funding for children in state mental health institutions, IAB Vol. XXVI, No. 12, ARC 2995B, ADOPTED.

2003 Acts Ch.178 provides funding for the education of children residing in mental health

institutions under the control of the Department of Human Services. This includes the Mental Health Institute; the State Training School; and the Iowa Juvenile Home. Each institution is to submit a program and budget request to the Departments of Education and Human Services. When the program and budget are approved by the Department of Education, funds will be distributed to the Department of Human Services. The state institutions may obtain the necessary services through local school districts or area education agencies

The rules begin with the general proposition that all children residing in state institutions and mental health institutes are to receive "appropriate educational services", including special education. The rules then detail the application and funding process, setting out timelines for identifying eligible residents, submitting proposals, budgets and department evaluation. The budget process is determined by a rather mechanical formula set out in the proposal, one formula for students who have an individualized educational program (special needs) and those who do not have and individual program.

In October the Legislative Services agency reviewed the fiscal impact of these rules, noting they would have no impact of the General Fund. Approximately \$3.4 million will be transferred from the state foundation aid to the department of human services.

EDUCATION DEPARTMENT

10:00

Career academies, IAB Vol. XXVI, No. 12, ARC 2996B, ADOPTED.

The federal Pub. Law No. 105-332 has amended existing federal provisions relating to vocational education by making grants available for programs which match two years of high school and two years of community college education. Under this concept school districts work in conjunction with community colleges to offer vocational, career and technical educational programs to high school students. These programs combine academic and job-related training, and

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culminate in an associate (2 year) degree. House File 683, §76 has dedicated funds from the Grow Iowa Fund for the creation of a “career academy”.

A career academy must be approved by both the local school board and community college and formally established by a 28E (cooperative) agreement. The rules call for a sequence of courses with emphasis in mathematics, science, and communications leading to an associate degree, and should utilize work-based and work site learning. Educational staffing is to be provided by secondary and post-secondary faculty.

In October the Legislative Services agency estimated that four community colleges would develop career academies in FY 2004 at a cost to the workforce and training development fund of \$453,000. Three more academies will be added in FY 2005, bringing the total cost to \$594,000.

EDUCATION DEPARTMENT

10:00

Charter schools, IAB Vol. XXVI, No. 12, ARC 2997B, ADOPTED.

A similar rulemaking in 2002 was terminated when the federal government declined to provide funding for the charter school program. That roadblock has now been eliminated with a \$1.1 million dollar federal grant in the first year, \$1.3 million in the second and \$1.8 million in the third. These rules have been in effect on an emergency basis since September. The program is authorized under federal law by Pub.L. No. 107-110, Title V. Part B, which provides funding for the creation and evaluation of these schools. These grants may be for up to three years.

To establish a charter school any parent or educator may file an application with the local school board to convert an existing building within the district. The application must be supported by at least fifty percent of the teachers employed at the school and fifty percent of the parents or guardians voting whose children are enrolled at the school. The state board may approve only ten pilot projects. When approved, a charter school may elect to comply with one or more provisions of

Iowa law, but it is exempt from many statutes and rules.

ELDER AFFAIRS DEPARTMENT

2:45

Adult day services programs, IAB Vol. XXVI, No. 12, ARC 3002B, NOTICE.

This proposal would establish a new chapter 24, incorporating a number of existing provisions, plus new regulation into a single umbrella: “adult day services programs”. The Department of Public Safety is also promulgating a companion set of rules relating to fire safety; they also appear in the 12/10/03 IAB, as ARC 2983B.

The most significant aspect of these rules is the portion relating to the certification adult day care services.

House File 672 creates a new Code Chapter 231D, certifying and regulating adult day care. Adult day care services provide under 16 hours of care and services to functionally impaired adults. These impairments can be either cognitive, psychological or physical. The format of this new certification process is similar to that for assisted living. Day care services are not set out in the Act; by rule the Department of Elder Affairs may establish various classifications of day care and the services that may be provided.

Only certified programs may receive public money. Certification of adult day care programs is under the jurisdiction of the department of inspections and appeals (DIA). Under the Act all programs must be certified, but those programs that are voluntarily accredited by a the Rehabilitation Accreditation Commission (CARF) are to be automatically certified by the state. A program may provide only the level or type of services for which the program is certified. A program may not change its’ level or type of service in such a way that would affect certification, without the approval of the department.

The certification process is detailed in rule, including specific provisions relating to fire and life safety, as detailed by rules of the department of public safety. Basic structural requirements for the

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facility itself are set out in the rules. The DIA must make an eligibility determination within twenty days following the submission of a complete application. Under the rules a conditional certification for one year is available for new applicants. For renewals, a program that is not accredited by CARF may be re-certified for two years, an accredited program may be re-certified for three years.

A key part of this filing involves the admission into day care. Each applicant must be evaluated to determine the persons "*functional, cognitive and health status and abilities*" on admission to the program and at least annually thereafter. No person may remain in day care service if the person:

- Is bed-bound;
- Requires routine three-person assistance with standing, transfer or evacuation;
- Is dangerous to self or others;
- Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
- Is under age 18;
- Requires more than part-time or intermittent health-related care;
- On a routine basis has unmanageable incontinence.

The rules do provide that waivers may be available from DIA.

A service plan, prepared by a health-care professional, must be developed for each person. The plan must identify the persons needs, requests for assistance and the services that will be provided.

Each program must have a medication policy which allows for self medication when possible. When the program administers medications it must document any medication the program has agreed to administer or supervise. Only a licensed nurse, certified medication manager or aide may supervise or administer medications. Each participant receiving program-administered prescription medications must be monitored by a registered nurse for adverse reactions. That nurse must also ensure that health care orders are kept current and assess the health status of each participant.

Each program must also have a nutrition program, providing meals or snacks on a 4 hour

basis and providing at least 1/3rd of the daily recommended dietary allowances.

ELDER AFFAIRS DEPARTMENT

2:45

Assisted living programs, IAB Vol. XXVI, No. 12, ARC 3001B, NOTICE.

This rulemaking has proved contentious even before the notice of intended action was published or the text even drafted. The ARRC has already reviewed the legislation and some of the underlying issues as early as August. At that time committee members supported the idea that waivers from the rules should be available to encourage innovation, especially for programs serving residents afflicted with dementia. These proposals do make special provisions for dementia-specific facilities. For those dementia-specific assisted living programs, built in a family or neighborhood design, the square footage requirements are reduced from 190 to 150 square feet. Self closing doors are not required and while each unit must have an individual bathroom, individual shower facilities are not required.

This proposal replaces an existing, less detailed set of standards. The Department of Public Safety is also promulgating a set of rules relating to fire safety; they also appear in the 12/10/03 IAB, as ARC 2984B.

This proposal in many areas is similar to the rules relating to day care programs (*supra*) establishes requirements for assisted living program certification and standards for the programs themselves. An appeal process for involuntary tenant transfer is also established. All assisted living programs must be certified. Certification is automatic for those programs accredited either by the Rehabilitation Accreditation Commission (CARF) or by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). Certification may be for up to three years. To retain this certification privilege national accreditation must be maintained at all times. Nonaccredited program must follow the certification process set out in the rules. An application for a nonaccredited program must be evaluated by the department of inspections and

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appeals (DIA) within 20 days; the program may be given a one year conditional certification. Re-certification the requires monitoring and evaluation by DIA. If successfully, the nonaccredited program may be certified for two years.

Prior to the construction or remodeling of a facility the DIA must review the blueprints to ensure compliance with the life safety code and other structural requirements. The rules set out in detail square footage and other requirements both for new and remodeled construction. Each unit must have a separate bathroom.

As with the prior rules each applicant must be evaluated by a health care professional to determine the persons "*functional, cognitive and health*" prior to admission to the program, within 30 days following occupancy and at least annually thereafter.

Perhaps the most significant portions of this filing are the eligibility criteria and the procedures for involuntary transfer. The eligibility criteria are those used for day care; no person may enter or remain in assisted living if the person :

- Is bed-bound;
- Requires routine three-person assistance with standing, transfer or evacuation;
- Is dangerous to self or others;
- Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
- Is under age 18;
- Requires more than part-time or intermittent health-related care;
- On a routine basis has unmanageable incontinence.

In response to earlier discussions concerning flexibility in the admissions and retention process, these rules do have a process allowing the possibility of a waiver from the occupancy and retention criteria for an individual tenant on a "*time-limited basis*". The rules set out a formal application process. The DIA will use three criteria to evaluate the request:

- It is the informed choice of the tenant or the tenant's legal representative, if applicable, to remain in the program; and
- The assisted living program is able to obtain the staff necessary to meet the tenant's service needs in addition to the service needs of the other tenants; and

- The waiver shall not jeopardize the health, safety, security or welfare of the tenant for whom the waiver is being requested, program staff, or other program tenants.

The rules also establish a process for involuntary transfer. If the program initiates the transfer, the tenant must be given notice, a statement of the reasons behind the action, and an opportunity to appeal. If the transfer is the result of a monitoring evaluation or complaint investigation by DIA the program, the affected tenant and those providing services to the tenant will have an opportunity to provide comments and information concerning the proposed action; ultimately the tenant may file an administrative appeal through the department.

Both the service plan requirements; the medication requirements and the dietary requirements are substantially similar to those for day care. An individual service plan must be developed for each tenant based on the initial evaluations conducted during the admissions process. The plan must be updated at least annually and must identify the tenant's needs, the tenant's requests for assistance and the expected outcomes. The plan must also detail any services and care to be provided to the tenant and identify any service providers. The plan must include planned and spontaneous activities based on the tenant's abilities and personal interests.

A program that administers prescription medications or provides health care or health-related care must provide for a registered nurse to monitor, at least every 90 days, each tenant receiving program-administered prescription medications. The nurse must also that health care professionals' orders are current and assess and document the health status of each tenant.

ELDER AFFAIRS DEPARTMENT

2:45

Complaint procedure. IAB Vol. XXVI, No. 12, ARC 3000B, NOTICE.

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All services and assisted living programs must be monitored by the DIA at least annually. The department will conduct on-site investigations if it receive a credible complaint that a program violation exists. It making these investigations DIA will apply a "preponderance-of-the-evidence" standard (more likely that not) in determining whether or not a complaint is substantiated. Any findings of violation must be reported to the program, which within 10 days must offer a plan of correction.

Chapter 231C sets a high standard to deny, rescind or revoke a certification. As set out in §231C. 10 the DIA must find a *"substantial or repeated failure on the part of the assisted living program to comply..."* As an alternative the DIA may provide a conditional certification to the program, up to one year. Fines are also available as a sanction. For a violation *"that results in imminent danger or a substantial probability of resultant death or physical harm to a participant or tenant..."* a \$10,000 fine may be imposed. Up to a \$5,000 fine may be imposed for violations which may threaten the health, safety, or security of the participants or tenants.

A full contested case hearing is available to programs wishing to contest a DIA sanction. The hearing will be held by the DIA division of administrative hearing.

ENVIRONMENTAL QUALITY DIVISION

Wednesday-10:25

Open burning: training fires, IAB Vol. IAB Vol. XXVI, No. 12, ARC 3007B, ADOPTED.

Old farm houses have always been a favorite tool for training firefighters. These training fires have always been regulated by the division; in essence the rules require notice to the department and prohibit the burning of shingles containing asbestos. Asphalt shingles may be left on a house, but for only two training fires per year. Rubber tires may not be burned.

This rewrite is based on and is similar to the existing rule; it adds some significant limitations.

Under the new language the house must be intact and any asphalt shingles must be tested for asbestos. Demolition debris may not be burned.

Demolished houses may not be burned in Council Bluffs, Cedar Rapids Des Moines, Davenport, Mason City or their suburbs. More than one demolished house may be burned in a training fire, but the total cannot exceed 1700 square feet. Again, all asbestos containing materials must be removed.

ENVIRONMENTAL PROTECTION COMMISSION

10:25

Small source exemption, IAB Vol. XXVI, No. 12 ARC 3007B, ADOPTED.

The commission, in conjunction with the federal EPA and the regulated industry, have completed a negotiated rulemaking in which all stakeholders agree to a new exemption from the air permitting requirements for "small units". The exemption applies in situations where the actual emissions are unlikely to have "environmental or human health consequences". A small unit will be required to obtain a construction permit or cease operation if it exceeds the specified emission levels.

This filing details the types and levels of contaminants that are within the threshold for the exemption; these include no more than: 0 pounds per year of lead and lead compounds, 5 tons per year of sulfur dioxide, 5 tons per year of nitrogen oxides, 5 tons per year of volatile organic compounds, 5 tons per year of carbon monoxide, 5 tons per year of particulate matter, 2.5 tons per year of "PM10", and 5 tons per year of hazardous air pollutants. The phrase *"hazardous air pollutants"* is defined in great detail in rule 567 IAC 22.100; The term does *not* include high risk pollutants. The holder of the exemption must document conformance and compliance with the specified emission rate limits; this may include the use of specified pollution troll devices or measures.

Additional restrictions are in place for a "substantial small unit," which is defined as

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emitting 75% of the small unit thresholds. The commission must be notified when such a unit is constructed or modified. In the event all the substantial small units in a facility cumulatively reach a specified threshold level (detailed in the rule), all of those units must be permitted.

ETHICS AND CAMPAIGN DISCLOSURE BOARD

1:30

Use of public property for political purposes, IAB Vol. XXVI, No. 13, ARC 3047B, NOTICE.

The board offers a complete re-write of its rules relating to the political use of public property. This has *never* been simple. For example, at one point it was thought that a deputy sheriff running for the office of sheriff could not appear in uniform. Under these common-sense guidelines public property generally cannot be used for political purposes. However, things like using government property for a public forum or for a debate would be allowable. Renting a site out, for fair value, is also permitted. The use of job titles and job-related uniforms is permitted.

The proposal also sets out some specific prohibitions. Using public property to solicit contributions or votes is prohibited. Using public vehicles or public equipment for campaign purposes is prohibited. A private vehicle with a campaign placard attached cannot be parked on public property for more than 24 hours. Campaign material cannot be placed on public property or a right-of-way for more than 24 hours.

These rules are really a first step, as issues arise and are resolved in the future more detail will be added to these rules.

HUMAN SERVICES DEPARTMENT

11:30

Assessment fees for care facilities, IAB Vol. XXVI, No. 12, ARC 3021B, EMERGENCY.

2003 Iowa Acts, Ch. 112 authorized the department to impose an assessment fee for quality assurance assessments; the fee cannot not exceed 6 percent of the facility's total annual nursing facility services revenue; fees are deposited in the Senior

Living Trust Fund. In exchange for this fee the department will adjust nursing facility payment rates and will also add a "*quality assurance payment*" to nursing facility per diem rates in the amount of \$5.90 per patient day. Under this framework the large majority of facilities will see an increase in reimbursement while a few facilities will actually suffer a loss. Under the Act, if the federal matching funds are ever terminated the state fee will terminate as well.

HUMAN SERVICES DEPARTMENT

11:30

Preferred drug list, IAB Vol. XXVI, No. 12 ARC 3020B, EMERGENCY.

The department is authorized to use the "emergency" rulemaking procedures to implement this program; however, a notice was published in September. House File 619 calls for a "preferred drug list" (PDL) program under the medical assistance program. Under the Act a "medical assistance pharmaceutical and therapeutics committee" is to be established within the department and charged with the responsibility to review the preferred drug list and make recommendations to the department. Those recommendations are to be based on "each drug's clinically meaningful therapeutic advantages in terms of safety, effectiveness, and clinical outcome." Until the committee is functional the department is to use an existing list developed by a Midwestern state. The department estimates savings of over \$8,000,000 using the PDL.

INSURANCE DIVISION

No Rep

The Iowa FAIR plan, IAB Vol. XXVI, No. 12, ARC 2992B, ADOPTED.

2003 Acts, Ch. 119 has given legal structure to an existing regulatory program which facilitates reinsurance for property and casualty losses. The plan was first created by Executive Order in 1968 as a voluntary program. Recent events necessitated a statutory and mandatory framework and for that reason this legislation was enacted. The plan is an insurer of last resort, providing property insurance for those turned down for other coverage; it is

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similar to assigned risk insurance. By law it cannot compete with regular insurance, which means than plan premiums are higher. Under the Act the fair plan is *not* an agency of state government; its' liabilities or debts are not the responsibility of the state. Every insurer licensed to do business in Iowa who writes property insurance is required to be a member of the FAIR plan. The plan is administered by a committee of insurers, under the supervision of the commissioner of insurance. The plan is funded through assessments to participating insurers; the assessments are based on the proportion of an insurer's weighted premiums written bears to the aggregate weighted premiums written by all insurers in the plan. The rules set out underwriting examples of hazards, conditions or situations that illustrate whether a property risk is acceptable for insurance purposes. Once issued a policy cannot be cancelled or not renewed except for fifteen specific reasons set out in the rule.

MEDICAL BOARD

8:30

Supervision of physician's assistants, IAB Vol. XXVI, No. 13, ARC 3042B, ADOPTED.

2003 Iowa Acts, Ch. 93 has made a number of changes in the supervision of physician's assistants. Under the changes a physician no longer must "register" the names of the physician's assistants supervised by the physician. Instead, the physician must notify the Medical Board of the identity of a physician assistant the doctor is supervising, and of any change in the status of the supervisory relationship. A physician may supervise no more than two assistants at any one time.

Section four of the Act states that a physician may serve as a supervising physician until a normal disciplinary proceeding finds that the physician is ineligible to serve as a supervisor.

As part of the revisions to implement this change the Medical Board moves the supervision requirement to its' disciplinary sections. Under these provisions, grounds for discipline include situations where:

- The supervising physician is not actively practicing medicine with patients in Iowa.

- The supervising physician does not have sufficient training or experience to supervise a physician assistant in the area of medical practice in which a physician assistant is to be utilized.
- A physician supervises more than two physician assistants at the same time.
- The physician fails to ensure that the physician assistant is adequately supervised, including being available in person or by telecommunication to respond to the physician assistant.

PUBLIC SAFETY DEPARTMENT

2:10

Fire fighter equipment fund, IAB Vol. XXVI, No. 13, ARC 3050B, EMERGENCY.

In consultation with various stakeholder groups the department both notices and emergency implements rules for the volunteer firefighter equipment fund. The rules go into effect January 1st, 2004. 2003 Iowa Acts, chapter 177, appropriated \$500,000 "*for allocation to the fire service training bureau to establish a revolving loan program for equipment purchases by local fire departments.*"

The fire marshal, in consultation with the fire service and emergency response council, may establish funding priorities for use in those situations where the number of requests exceeds the funds available. Loans are available for a variety of purposes: \$25,000 through \$150,000 are available for firefighting apparatus such as firefighting or rescue vehicles. \$10,000 through \$50,000 loans are available for the repair of firefighting apparatus. \$10,000 through \$50,000 loans are available for protective clothing and equipment and communications gear. That same amount is also made available for accessory equipment, including hoses, ladders and a variety of tools and equipment.

An origination fee of one percent of the loan amount will be withheld from the original payout of the loan. Loans of \$50,000 or more may be paid over a ten year period; lesser amounts must be paid over five years. At least two payments must be made each year.

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The rules also set out a variety of eligibility requirements. All applicants must provide a 10% match. No more than 50% of the funds may be loaned to departments serving communities of 30,000, unless there are no applications pending from smaller departments. A department is eligible for only one loan at a time, on one loan every five years, whichever is longer; two additional years are added in those cases where a department has defaulted on a loan.

PUBLIC HEALTH DEPARTMENT

No Rep

Quarantines, IAB Vol. XXVI, No. 12, ARC 2979B, NOTICE.

The department is updating existing rules relating to communicable and infectious diseases; quarantine regulations have been in place for decades. The current rules and the new revisions implement the recently enacted Code Chapter 139A; these proposals are substantially similar to the existing rules. Most of the revised language relates to the imposition of quarantines.

Under the rules a quarantine may be imposed due to the presence of any communicable disease which presents a risk of serious harm to public health and which may require isolation or quarantine to prevent its spread. SARS disease is one example of such a disease. All health care providers and clinical laboratories must report any communicable disease they discover. The reports are then investigated by either the department or a local board of health. Existing rules and procedures for quarantines are re-written.

Quarantine regulations have a long history, with the most notable being "Typhoid Mary", who was, in the early Twentieth Century, administratively quarantined for the balance of her life. Any person with a suspected or active quarantinable disease is excluded the workplace, school or at other public places until the individual receives the approval of the department or a local board of health. The

proposals set out a series of principles and procedures for imposing a quarantine. The terms of a quarantine must be the least restrictive as necessary to prevent spread of the disease. The site of a quarantine may be a residence or any other place, but it must be clearly identified as a quarantine area. In those cases where a person refuses to comply, the existing rules call for a judicial action to compel compliance; this proposal replaces the judicial process with an administrative hearing to contest the order, with judicial review being available. A quarantine order is enforceable in court and its' violation is a simple misdemeanor.

PUBLIC HEALTH DEPARTMENT

No Rep

Early hearing screening, IAB Vol. XXVI, No. 12, ARC 2981B, ADOPTED.

The department completes action on a new program requiring all newborn infants to be screened for hearing defects; however, parents may decline these required services. This new program is mandated by 2003 Iowa Acts, Chapter 102 The expectation is that with early detection and treatment the long-term outcomes can be improved. Under the Act infants must be screened for hearing loss prior to discharge. Both hospitals and birthing centers must maintain screening programs; hospitals must provide the screening in-house; while birthing centers must arrange for the service. For births under other circumstances, the attending physician or other health care professional must make the required arrangements. The results of the screenings must be forwarded to the department. The rules also sets out a "protocol", recommending a variety of diagnostic tools to be used following the initial screening.